

ENTERED

May 03, 2024

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

AVERY STINSON,	§	CIVIL ACTION NO
<i>et al</i> ,	§	4:22-cv-01775
Plaintiffs,	§	
	§	
	§	
vs.	§	JUDGE CHARLES ESKRIDGE
	§	
	§	
UNITED STATES	§	
POSTAL SERVICE,	§	
<i>et al</i> ,	§	
Defendants.	§	

**ORDER ADOPTING
MEMORANDUM AND RECOMMENDATION**

Plaintiff Avery Stinson, individually and as next friend of his minor children Nayeli Stinson, Izyana Stinson, Amaziah Stinson, and Shantay Sampson filed an Amended Complaint for Damages asserting claims under the Federal Tort Claims Act against the United States. Dkt 29. Defendant moved to dismiss the claims of the minor Plaintiffs for failure to exhaust administrative remedies. Dkt 39.

Pending is a Memorandum and Recommendation by Magistrate Judge Christina A. Bryan dated March 25, 2024. Dkt 50. She recommends that Defendant's motion be granted, and that the minor Plaintiffs' claims be dismissed without prejudice for failure to exhaust administrative remedies.

The district court reviews *de novo* those conclusions of a magistrate judge to which a party has specifically objected. See FRCP 72(b)(3) & 28 USC § 636(b)(1)(C); see also *United States v Wilson*, 864 F2d 1219, 1221 (5th Cir 1989, *per curiam*). The district court may accept any other

portions to which there's no objection if satisfied that no clear error appears on the face of the record. See *Guillory v PPG Industries Inc*, 434 F3d 303, 308 (5th Cir 2005), citing *Douglass v United Services Automobile Association*, 79 F3d 1415, 1430 (5th Cir 1996, *en banc*); see also FRCP 72(b) advisory committee note (1983).

None of the parties filed objections. No clear error otherwise appears upon review and consideration of the Memorandum and Recommendation, the record, and the applicable law.


The Memorandum and Recommendation of the Magistrate Judge is ADOPTED as the Memorandum and Order of this Court. Dkt 50.

The motion by Defendant to dismiss the minor Plaintiffs' claims is GRANTED. Dkt 39.

The claims of Nayeli Stinson, Izyana Stinson, Amaziah Stinson, and Shantay Sampson are DISMISSED WITHOUT PREJUDICE for failure to exhaust administrative remedies.

SO ORDERED.

Signed on May 3, 2024, at Houston, Texas.


Hon. Charles Eskridge
United States District Judge